

**REMARKS**

**Status of the Claims**

Claims 12-19 are currently pending, with claims 1-10 and 20 being cancelled with the present response and claims 12 and 19 being amended herein. Claim 12 has been amended to provide proper correspondence and antecedent basis for the features recited in the claim. Claim 19 has been further amended for consistency with the specification and other claims. No new matter has been added by the amendments to claims 12 and 19. Nor is the patentability of claim 12 or 19 affected by the amendments.

**Priority Claim Under 35 U.S.C. §§119 and 371**

The Examiner notes that because acceptance of the application as fulfilling the requirements for a national stage application under 35 U.S.C. §371 has been vacated by the petition decision of August 17, 2004, the priority claim under 35 U.S.C. §§119 and 371 is no longer valid and as a result the application has a filing date of January 28, 2002.

Attached hereto is a copy of the decision issued December 14, 2004 on Applicants' renewed petition that was filed October 18, 2004. The decision on the Renewed Petition grants

Applicants' petition to accept the application without the signature of Inventor Yutaka TAJIMA. The decision further recognizes the application as having an international filing date of November 26, 1999, thus maintaining the continuity of the application and the claim to priority under 35 U.S.C. §119. In view of the decision on the Renewed Petition, the Examiner is requested to acknowledge the priority claims of the application.

**Defective Oath/Declaration**

The Examiner finds the Oath/Declaration of January 28, 2002 defective based on the decision on the Petition issued on August 17, 2004. As indicated above, the decision on the Renewed Petition issued on December 14, 2004, states acceptance of the Declaration & Power of Attorney filed on January 28, 2002. As such, the Oath/Declaration is in compliance with all statutes and rules and acknowledgement thereof is respectfully requested.

**Rejections under 35 U.S.C. §102(b) -**

a) Claims 1-10 and 12-20 have been rejected under 35 U.S.C. §102(b) as being anticipated by JP 2000-159686. JP '686 is a Japanese priority application of the present application. Applicants request withdrawal of this rejection in view of the

decision on the Renewed Petition, attached hereto, which indicates an international filing date of the present application of November 26, 1999. As such, JP '686 is not prior art against the present application.

b) Claims 1-10 and 20 have been rejected under 35 U.S.C. §102(b) as being anticipated by JP 7-173070 as corresponding to US 2004/0038330, which is the US equivalent to JP 7-173070. Claims 1-10 and 20 have been cancelled, thus obviating this rejection.

Applicants further note that there is no disclosure or suggestion in US '330/JP '070 of any LAK activity and the reference only considers anti-HIV activity. As such, claims directed to methods of enhancing LAK activity (claims 12-18) and claims to method of treating cancer/tumors (claim 19) are neither anticipated by, nor obvious over US '330/JP '070.

As the above remarks address and overcome the rejections, withdrawal thereof and allowance of the claims are respectfully requested.

Should the Examiner have any questions regarding the present application, she is requested to please contact MaryAnne

Appl. No. 09/830,449

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(703) 205-8000.

Applicants request a one (1) month extension of time for  
filing the present response. The required extension fee is  
attached hereto.

If necessary, the Commissioner is hereby authorized in  
this, concurrent, and future replies, to charge payment or  
credit any overpayment to Deposit Account No. 02-2448 for any  
additional fees required under 37 C.F.R. §§1.16 or 1.17;  
particularly, extension of time fees.

Respectfully submitted,

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By



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0230-0161P

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Attachment: Decision on Renewed Petition issued December 14,  
2004